



## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[CMS-3296-NC]

RIN 0938-ZB14

### Medicare Program; Evaluation Criteria and Standards for Beneficiary and Family

### Centered Care Quality Improvement Organization Contract

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice with comment period.

**SUMMARY:** This notice with comment period describes the general criteria we intend to use to evaluate the effectiveness and efficiency of Beneficiary and Family Centered Care (BFCC) Quality Improvement Organizations (QIOs) that will enter into contracts with CMS under the 11<sup>th</sup> Statement of Work (SOW) in May 2014 titled, "Beneficiary and Family Centered Care (BFCC) Quality Improvement Organization (QIO) Contract" (HHSM-500-2014-RFP-BFCC-QIO). This contract allows for a transition period from the incumbent QIOs to the successor QIOs. The activities for the BFCC-QIO SOW begin August 1, 2014. The evaluation of a BFCC-QIO's performance related to the SOW will be based on evaluation criteria specified for the tasks set forth in Attachment J-10 of the BFCC-QIOs' SOW contract.

**DATES:** Effective Date: August 1, 2014 to July 31, 2019.

Comment Date: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on **[INSERT DATE 30 DAYS AFTER DATE OF**

**PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** In commenting, refer to file code CMS-3296-NC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. Electronically. You may submit electronic comments on this regulation to **<http://www.regulations.gov>**. Follow the "Submit a comment" instructions.
2. By regular mail. You may mail written comments to the following address ONLY:  
Centers for Medicare & Medicaid Services,  
Department of Health and Human Services,  
Attention: CMS-3296-NC,  
P.O. Box 8010,  
Baltimore, MD 21244-1850.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. By express or overnight mail. You may send written comments to the following address ONLY:

Centers for Medicare & Medicaid Services,  
Department of Health and Human Services,  
Attention: CMS-3296-NC,  
Mail Stop C4-26-05,  
7500 Security Boulevard,  
Baltimore, MD 21244-1850.

4. By hand or courier. Alternatively, you may deliver (by hand or courier) your written comments ONLY to the following addresses:

- a. For delivery in Washington, DC--

Centers for Medicare & Medicaid Services,  
Department of Health and Human Services,  
Room 445-G, Hubert H. Humphrey Building,  
200 Independence Avenue, SW.,  
Washington, DC 20201

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD--

Centers for Medicare & Medicaid Services,  
Department of Health and Human Services,  
7500 Security Boulevard,  
Baltimore, MD 21244-1850.

If you intend to deliver your comments to the Baltimore address, call telephone number (410) 786-9994 in advance to schedule your arrival with one of our staff members.

Comments erroneously mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the "SUPPLEMENTARY INFORMATION" section.

**FOR FURTHER INFORMATION CONTACT:**

Alfreda Staton, (410) 786-4194.

**SUPPLEMENTARY INFORMATION:**

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: <http://www.regulations.gov>. Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1-800-743-3951.

**I. Background**

Section 1153(h)(2) of the Social Security Act (the Act) requires the Secretary of the Department of Health and Human Services to publish in the **Federal Register** the general criteria and standards that will be used to evaluate the effective and efficient performance of contract obligations by the Quality Improvement Organizations (QIOs) and to provide the opportunity for public comment with respect to these criteria and standards. This notice describes the general criteria that will be used to evaluate the performance of Beneficiary and Family Centered Care (BFCC) Quality Improvement Organizations (QIOs) under the 11<sup>th</sup> Statement of Work (SOW) contract beginning August 1, 2014.

**II. Provisions of the Notice With Comment Period**

The purpose of the BFCC-QIO contract is to improve healthcare services for Medicare beneficiaries through BFCC performance of numerous statutory and regulatory review functions, including, but not limited to the following:

- Quality of care reviews, including beneficiary complaint reviews and general quality of care reviews;
- Beneficiary appeals of hospital discharges and terminations of service decisions, commonly referred to as *Grijalva*, *BIPA*, and *Weichardt* appeals.
- Medical necessity reviews;
- Appropriateness of setting reviews;
- Diagnosis Related Group (DRG) reviews;
- Readmission reviews;
- Reviews under Emergency Medical Treatment and Active Labor Act (EMTALA);
- Sanctions; and
- Monitoring of Physician Acknowledgement Statements under section 1156(a) of the Act and our regulations at 42 CFR 412.46.

The BFCC-QIO contract also imposes other BFCC-QIO responsibilities: coordinating and collaborating with other QIOs; developing and making recommendations to promote responsiveness to beneficiary and family needs; providing opportunities for listening to and addressing beneficiary and family concerns; and providing resources for beneficiaries and caregivers in decision making. These QIO beneficiary and family centered efforts align with the National Quality Strategy, which encourages patient and family engagement. (See the BFCC-QIO Statement of Work, Solicitation Number: HHSM-500-2014-RFP-BFCC-QIO, which was posted on December 5, 2013 and is available at

[https://www.fbo.gov/index?s=opportunity&mode=form&id=6a3acf7d9bd34efb1268e120a13b22e8.\)](https://www.fbo.gov/index?s=opportunity&mode=form&id=6a3acf7d9bd34efb1268e120a13b22e8.)

### **III. Evaluation of the Tasks** (See sections C.6, H.2, H.5 and J-10 of the BFCC-QIO SOW)

We will conduct monitoring activities throughout the course of the contract and will act upon findings as necessary. Information used for these monitoring purposes includes but is not limited to:

- Deliverables submitted by the BFCC-QIO to CMS in accordance with the Section F “Deliverables or Performance.”
- Provider/facility surveys and/or productivity measures, including cost benefit analysis.
- Data for measures indicated in Attachments J-4 and J-10 of the BFCC-QIO SOW.
- Data from the BFCC-QIO’s Internal Quality Control Program.
- Other data submitted by BFCC-QIOs as required by CMS.
- Additional information gathered by email, telephone, video or in-person visits.

BFCC-QIOs must cooperate with the Contracting Officer Representative (COR) on all our monitoring processes and address any concerns identified by the COR. We will take appropriate contract action (for example, providing warning for the need for adjustment, instituting a formal correction plan, terminating an activity, or recommending early termination of a contract because of failure to meet contract timelines or performance as specified in the contract). This means that the BFCC-QIO must comply with the Contract, Tasks, Schedules of Deliverables, Evaluation Measures Tables, and any subsequent modifications (including Health Care Quality Improvement System and Transmission of Policy Memorandums) issued by CMS.

Additionally, there will be multiple periods of more formal evaluation under this contract. The first evaluation will occur at the end of the 12<sup>th</sup> month of the contract. Subsequent evaluations will occur at the end of the 24, 36, 48 and 54<sup>th</sup> month of the contract. The

evaluations will be based on the most recent data available to us. The performance results of the evaluation at each evaluation period (that is, 12, 24, 36, 48 and 54<sup>th</sup> months) will be used, in addition to ongoing monitoring activities, to determine the BFCC-QIO's performance on the overall contract.

The BFCC-QIO measures for the 11<sup>th</sup> SOW are as follows:

- Quality of Review: Inter-Rater Reliability.
- 4-day Data Entry Compliance.
- Timeliness of Beneficiary Complaints and Other Quality of Care Reviews.
- Timeliness of Discharge/ Service Termination Reviews.
- Timeliness of EMTALA and Higher Weighted Diagnosis-Related Group Reviews.
- Complainant Agreement to Complete Survey.
- Beneficiary Experience with Quality of Care Complaints.
- Beneficiary Experience with Appeal Reviews.

#### Annual and 54<sup>th</sup> Month Evaluation

Annual and 54<sup>th</sup> month evaluation criteria are specifically defined in Attachment J-10, “Annual and 54<sup>th</sup> Month Evaluation Criteria Measures Table,” of the BFCC-QIO SOW; the criteria for evaluating each deliverable are identified in Section F (“Deliverables or Performance”) of the 11<sup>th</sup> SOW. Further, the Contracting Officer will use the Contractor Performance Assessment Reporting System (CPARS) criteria in performing evaluations: Quality, Schedule/Timeliness, Cost/Price Control, Business Relations, Management, and Small Business. Performance on the evaluation criteria defined in Attachment J-10 will be considered for assessment of the Quality sub-factor for the CPARS assessment.

#### Overall Contract Evaluation

The results of the annual (12, 24, 36, 48<sup>th</sup> month) and 54<sup>th</sup> month evaluation periods, in addition to ongoing monitoring activities, will be used to determine how the contractor performed on the overall contract. If we choose, we may notify the BFCC-QIO of our intention not to renew the BFCC-QIO contract and inform the BFCC-QIO of their rights under the current statute.

Any failure at one or more of the annual or 54<sup>th</sup> month evaluations for any Task may result in the BFCC-QIO receiving an adverse past performance evaluation. Further, failure may impact on the BFCC-QIO's ability to continue similar work in or eligibility for future QIO Program awards.

We reserve the right at any point, prior to the notification of our intent not to renew the contract, to revise measures or adjust the expected minimum thresholds for satisfactory performance or remove criteria from a Task evaluation protocol for any reason, including, but not limited to, data gathered based on experience with the amount of improvement achieved during the contract cycle or in pilot projects currently in progress, information gathered through evaluation of the BFCC-QIO performance overall, or any unforeseen circumstances. Further, in accordance with standard contract procedures, we reserve the right at any time to discontinue all or part of one or more Tasks for one or more states or territories in the QIO area or any other part of this contract, regardless of BFCC-QIO performance on the Task.

#### **IV. Collection of Information Requirements**

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

#### **V. Response to Comments**

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the "**DATES**" section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

## **VI. Regulatory Impact Statement**

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by the Office of Management and Budget.

CMS-3296-NC

Dated: June 3, 2014.

**Marilyn Tavenner,**

Administrator,

Centers for Medicare & Medicaid Services.

**BILLING CODE 4120-01-P**

**[FR Doc. 2014-17625 Filed 07/25/2014 at 8:45 am; Publication Date: 07/28/2014]**